

REMARKS

Claims 10-17 remain in the case, claims 18-19 were previously withdrawn and new claims 20-22 are added. New base claims 20 and 22 are similar to, but in-parts more narrow, than claim 10. Favorable reconsideration of the above-identified application in view of the foregoing amendments and following remarks is respectfully requested.

Prosecution History and Proposed Correction to Elected Species:

A preliminary amendment, filed January 28, 2004, cancelled claims 1-9 and added new claims 10-19.

A USPTO Restriction Requirement, mailed March 9, 2005, failed to recognize the preliminary amendment and identified 18 alleged Specie stating previously cancelled claims 1-9 are subject to the restriction and/or election requirement.

A Response, dated March 24, 2005, to the erroneous Restriction Requirement inadvertently elected Specie I for purposes of prosecution and subject to the new claims 10-19 (not cancelled claims 1-9).

A USPTO Non-Final Office Action, mailed June 14, 2005, rejects claims 10-17 and withdraws claims 18-19. The Examiner states (emphasis added in bold):

"Applicant elected specie one, figures 1-6. In this specie there is no lugs extending from each side as recited in **claim 1**. The examiner considered as many limitations as possible. Sometimes it was difficult in the applicant used different terminology in the claims, other than the language in the specification to refer to elements of the embodiment. The examiner reviewed the claims and applied prior art as best as understood. If another embodiment of the invention, including the lugs and notches, is being claimed, then this embodiment and claim is not generic

to all species. As a courtesy to the applicant, the examiner considered the same an error on applicant's part and believe the language will be removed in the next response. If not the claim must also be withdrawn."

Even if the Examiner meant to recite "claim 10" and not "claim 1," it is clear that Claim 10 is not directed to Specie 1. Even though claim 10 contains elements clearly not pertaining to Specie 1 for purposes of prosecution, the Examiner rejected the claims based on references allegedly having the above elements. Applicant thus respectfully contends that the actual USPTO search, and thus rejection, did include Specie 18.

A Response, dated September 22, 2005, argues subject to Specie 18 by referencing Figure 73 (not Figures 1-6).

The present and second USPTO Non-Final Office Action, mailed May 23, 2006, only states the arguments presented in the preceding Response are moot. Moreover, this Office Action clearly argues subject to Specie 18 and not Specie 1.

With the above understanding of prosecution history, Applicant respectfully requests and proposes amending (switching) the inadvertently elected Specie 1 to Specie 18.

A call to Examiner Jeanette Chapman from David Burns, Esq. on August 10, 2006 briefly entailed the above events requesting the ability to amend/switch species without the need and expense of a RCE since such a switch would not require a new search on the part of the USPTO (i.e. Specie 18 has already been searched and argued by the USPTO anyways). Although the Examiner did not commit to allowing this correction, she was receptive and indicated that she will decide whether or not to approve of the switch with further review.

If an RCE is required and the Examiner considers this Response as non-responsive, the Applicant requests a timely response to avoid any fee extensions (before August 23, 2006).

Claim Rejections - 35 USC § 103:

Claims 10-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Swanson, U.S. Patent 1,150,790, in view of Hansen, U.S. Patent 5,274,972. The applicant respectfully traverses the rejection.

With regard to Specie 18, currently amended claim 10 reads (clarifications/support added in bold):

"10. An assembly for mounting to a structure, comprising:

a base (**1006, 1008, see Fig. 73**) having first and second sides (**see par. 223 in spec.**) and including a first base portion and a second base portion (**1010, 1012, see end and/or central portions in Fig 73**), the first base portion having at least one first portion rib (**1026, see Fig 73**) extending longitudinally between the first and second sides and at least one first portion planar surface (**1023, see planar portions and/or surfaces in Fig. 73**) adjacent the at least one first portion rib, the at least one first portion rib having a generally U-shaped cross-section, the first base portion having at least one first portion notch (**1027, 1037, see Fig. 73**) located at each side, the second base portion having at least one second portion rib (**1031, see Fig 73**) and at least one second portion planar surface (**1025, see planar portions and/or surfaces in Fig. 73**) adjacent the at least one second portion rib, the at least one second portion rib extending longitudinally between the first and second sides and having a generally U-shaped cross-section, the base second portion having at least one second portion lug (**1029, see Fig. 73**) extending from each side; and,

a cover (**1004, 1014, 1016, see Fig. 73**) having first and second sides (**see par. 225 in spec.**), a first cover portion (**1022, see Fig. 73**) and a second cover

portion (1018, 1020, see Fig. 73) and being removably connectable with the base, the first cover portion having at least one inwardly facing projection (1034, see Fig. 74) located on each side of the cover, each one of the at least one projection corresponding with each respective one of the at least one first portion notch, the second cover portion having at least one blind recess (1043, see Fig. 75) located at one each side of the cover, each one of the at least one blind recess corresponding to a respective one of the at least one second portion lugs."

With the elements of amended claim 10 clearly referenced in regards to Specie 18 as outlined above, it is clear that the alleged base (22) of Swanson '790 (and the alleged base of Hansen '972) do not have sides unless the alleged Swanson ribs (23) are also considered to be the sides. This is contrary to amended claim 10 that claims ribs (1026) and sides separately.

Because the references do not teach or suggest, individually or in combination, the ribs (1026, 1031) of the present application, which extend longitudinally between the sides, claims 10, 11 and 15 are believed to be non-obvious and patentable over Swanson '790 in view of Hansen '972.

With regard to claim 13 and 16, the base portion (22) of Swanson '790 clearly has only one planar surface and not a plurality of surfaces as claimed in claims 13 and 16.

With regard to claim 14, the alleged notches of Swanson '790 are not aligned to the ends of the alleged ribs (23) and instead extend along the entire longitudinal length.

In addition, because base claim 1 is patentable, dependent claim 17 is believed to be non-obvious and patentable. If an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious, In re Fine, 837 F.2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988).

New Claims:

New base claim 20 is directed to a decorative trim assembly, thus Applicant contends the Hansen '972 reference is non-analogous art. Moreover, the alleged covers of the references do not fit through the open ends of the ribs as claimed in claim 20. Yet further, the ribs of claim 20 are "reinforcement" ribs whereas the ribs of the references must flex.

New base claim 22 is directed to an elongated base assembly with ribs that traverse across the base. The references teach alleged ribs that co-extend with the base.

Summary:

Please reconsider claims 10-17 and new claims 20-22 in view of the above amendments and remarks.

If it is determined that any fees are due, the Commissioner is hereby authorized and respectfully requested to charge such fees to Deposit Account No. 08-2789.

Respectfully submitted,

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